

Introduced by Senator Vasconcellos

(Principal coauthors: Assembly Members Berg and Nation)

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Laird, and Levine)

February 2, 2004

An act to amend Section 4145 of, and to repeal Section 4146 of, the Business and Professions Code, to amend Section 11364 of, and to add Chapter 13.5 (commencing with Section 121285) to Part 4 of Division 105 of, the Health and Safety Code, and to amend Sections 41770 and 41900 of, and to add Section 41803 to, the Public Resources Code, relating to hypodermic needles and syringes.

LEGISLATIVE COUNSEL'S DIGEST

SB 1159, as introduced, Vasconcellos. Hypodermic needles and syringes.

(1) Existing law regulates the sale, possession, and disposal of hypodermic needles and syringes. Under existing law, a prescription is required to purchase a hypodermic needle or syringe for human use, except to administer adrenaline or insulin.

This bill would authorize a licensed pharmacist, until December 31, 2008, to sell or furnish 10 or fewer hypodermic needles or syringes to a person for human use without a prescription if the pharmacy is registered with a local health department in the Disease Prevention Demonstration Project, which would be created by the bill to evaluate the long-term desirability of allowing licensed pharmacies to sell or furnish nonprescription hypodermic needles or syringes to prevent the spread of blood-borne pathogens, including HIV and hepatitis C.

The bill would require local health departments to register pharmacies in the program and to cooperate with the Office of AIDS of

the State Department of Health Services, thereby imposing a state-mandated local program. The bill would require the Office of AIDS of the State Department of Health Services, in conjunction with an advisory panel, to evaluate the effects of allowing the sale of hypodermic needles or syringes without prescription, and would require a report to be submitted to the Governor and the Legislature by January 15, 2008, subject to funding being available from federal or private sources. The demonstration program would terminate on December 31, 2008.

Alternatively, the bill would also authorize the sale or furnishing of hypodermic needles or syringes to a person for human use without a prescription if the person is known to the furnisher and has previously provided the furnisher with a prescription or other proof of a legitimate medical need.

(2) Existing law requires a pharmacist to keep detailed records of nonprescription sales of hypodermic needles and syringes.

This bill would delete that requirement.

(3) Existing law prohibits the possession and sale of drug paraphernalia.

This bill, until December 31, 2008, would authorize a person to possess 10 or fewer hypodermic needles or syringes if acquired through an authorized source.

(4) Existing law requires a county or regional agency to prepare an integrated waste management plan based on submissions from cities and the county that includes a program element for the safe collection, recycling, treatment, and disposal of hazardous waste generated by households that should be separated from the solid waste stream.

This bill would authorize, as part of the update of the household waste element described above, a program to be identified for the safe collection, recycling, treatment, and disposal of household sharps waste, defined to mean hypodermic needles, syringes, and lancets. The bill would enact other related provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.



This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4145 of the Business and Professions
2 Code is amended to read:
3 4145. (a) Notwithstanding any other provision of law, a
4 pharmacist or physician may, without a prescription or a permit,
5 furnish hypodermic needles and syringes for human use ~~in the~~
6 ~~administration of insulin or adrenaline; a pharmacist or~~
7 ~~veterinarian may, without a prescription or license, furnish~~
8 ~~hypodermic needles and syringes for use on poultry or animals;~~
9 and a person may, without a prescription or license, obtain
10 hypodermic needles and syringes from a pharmacist or physician
11 for human use ~~in the administration of insulin or adrenaline, or~~
12 ~~from a pharmacist, veterinarian, or licenseholder, for use on~~
13 ~~poultry or animals; if all, if one of the following requirements are~~
14 ~~is met:~~
15 ~~(a) No~~
16 (1) *The person is known to the furnisher and the furnisher has*
17 *previously been provided a prescription or other proof of a*
18 *legitimate medical need requiring a hypodermic needle or syringe*
19 *to administer a medicine or treatment.*
20 (2) *For the period commencing January 1, 2005, and ending*
21 *December 31, 2008, a pharmacist may furnish or sell 10 or fewer*
22 *hypodermic needles or syringes at any one time to a person 18*
23 *years of age or older if the pharmacist works for a pharmacy that*
24 *is registered for the Disease Prevention Demonstration Project*
25 *pursuant to Chapter 16 (commencing with Section 121350) of Part*
26 *4 of Division 105 of the Health and Safety Code and the pharmacy*
27 *complies with the provisions of that chapter.*
28 (b) *Notwithstanding any other provision of law, a pharmacist,*
29 *veterinarian, or person licensed pursuant to Section 4141 may,*
30 *without a prescription or license, furnish hypodermic needles and*
31 *syringes for use on animals, and a person may, without a*

1 *prescription or license, obtain hypodermic needles and syringes*
2 *from a pharmacist, veterinarian, or person licensed pursuant to*
3 *Section 4141 for use on animals, providing that no needle or*
4 *syringe shall be furnished to a person who is unknown to the*
5 *furnisher and unable to properly establish his or her identity.*

6 ~~(b) The furnisher, at the time furnishing occurs, makes a record~~
7 ~~of the furnishing in the manner required by Section 4146.~~

8 SEC. 2. Section 4146 of the Business and Professions Code
9 is repealed.

10 ~~4146. Any furnishing of a hypodermic syringe or hypodermic~~
11 ~~needle without a prescription shall, at the time of furnishing, be~~
12 ~~recorded in a book by the furnisher. The record of furnishing shall~~
13 ~~consist of the date and hour of the furnishing, the type or kind, size,~~
14 ~~and quantity of syringe or needle furnished, the purpose and use~~
15 ~~for which the needle or syringe was obtained, the signature of the~~
16 ~~furnisher, and the signature and address of the person to whom the~~
17 ~~needle or syringe was furnished. The record book shall be~~
18 ~~available for inspection by any authorized officer of the law.~~

19 SEC. 3. Section 11364 of the Health and Safety Code is
20 amended to read:

21 11364. (a) It is unlawful to possess an opium pipe or any
22 device, contrivance, instrument, or paraphernalia used for
23 unlawfully injecting or smoking (1) a controlled substance
24 specified in subdivision (b), (c), or (e), or paragraph (1) of
25 subdivision (f) of Section 11054, specified in paragraph (14), (15),
26 or (20) of subdivision (d) of Section 11054, specified in
27 subdivision (b) or (c) of Section 11055, or specified in paragraph
28 (2) of subdivision (d) of Section 11055, or (2) a controlled
29 substance which is a narcotic drug classified in Schedule III, IV,
30 or V.

31 (b) *This section shall not apply to hypodermic needles or*
32 *syringes that have been containerized for safe disposal in a*
33 *container that meets state and federal standards for disposal of*
34 *sharps waste.*

35 (c) *For the period commencing January 1, 2005, and ending*
36 *December 31, 2008, subdivision (a) shall not apply to the*
37 *possession solely for personal use of 10 or fewer hypodermic*
38 *needles or syringes if acquired from an authorized source.*

SEC. 4. Chapter 13.5 (commencing with Section 121285) is added to Part 4 of Division 105 of the Health and Safety Code, to read:

CHAPTER 13.5. DISEASE PREVENTION DEMONSTRATION PROJECT

121285. (a) The Disease Prevention Demonstration Project, a collaboration between pharmacies and local and state health officials, is hereby authorized for the purpose of evaluating the long-term desirability of allowing licensed pharmacists to furnish or sell nonprescription hypodermic needles or syringes to prevent the spread of blood-borne pathogens, including HIV and hepatitis C.

(b) The Office of AIDS shall, subject to the availability of federal or private funds for these purposes, evaluate the effects of allowing pharmacists to furnish or sell a limited number of hypodermic needles or syringes without prescription, and provide a report to the Governor and the Legislature on or before January 15, 2008. The report shall include, but need not be limited to, the effect of nonprescription hypodermic needle or syringe sale on all of the following:

(1) Hypodermic needle or syringe sharing practice among those who inject illegal drugs.

(2) Rates of disease infection caused by hypodermic needle or syringe sharing.

(3) Needlestick injuries to law enforcement officers and waste management employees.

(4) Drug crime or other crime in the vicinity of pharmacies.

(5) Safe or unsafe discard of used hypodermic needles or syringes.

(6) Rates of injection of illegal drugs.

(c) The Office of AIDS, subject to the availability of federal or private funds for this purpose, shall convene an uncompensated advisory panel comprised of all of the following: two or more specialists in the control of infectious diseases; one or more representatives of the California State Board of Pharmacy; one or more representatives of independent pharmacies; one or more representatives of chain pharmacy owners; one or more representatives of law enforcement executives, such as police chiefs and sheriffs; one or more representatives of rank and file law

1 enforcement officers; a specialist in hazardous waste management
2 from the State Department of Health Services; one or more
3 representatives of rank and file waste haulers; one or more
4 representatives of the waste management industry; and one or
5 more representatives of local health officers.

6 (d) Local health departments shall be responsible for all of the
7 following:

8 (1) Maintaining a list of all pharmacies within the local health
9 department's jurisdiction that have registered under the Disease
10 Prevention Demonstration Project.

11 (2) Providing pharmacies with written information that can be
12 reproduced that is to be provided in writing or orally by the
13 pharmacy at the time of furnishing or sale of nonprescription
14 hypodermic needles or syringes, including all of the following:

15 (A) Local options for accessing drug treatment.

16 (B) Local options for accessing testing and treatment for HIV
17 and hepatitis C.

18 (C) Local options for safe disposal of sharps waste, including,
19 if available, the locations of authorized needle exchange
20 programs, home-generated sharps consolidation points as defined
21 in Section 117904, or medical waste generators for disposal
22 pursuant to Section 118147.

23 (3) Cooperating with the Office of AIDS in the collection and
24 analysis of data relative to the evaluation of the Disease Prevention
25 Demonstration Project, as needed.

26 (e) In order to furnish or sell nonprescription hypodermic
27 needles or syringes as part of the Disease Prevention
28 Demonstration Project, a pharmacy shall do all of the following:

29 (1) Register with the local health department by providing a
30 contact name and related information, and certifying that it will
31 provide, at the time of furnishing or sale of hypodermic needles or
32 syringes, written information or verbal counseling on all of the
33 following:

34 (A) Local options for accessing drug treatment.

35 (B) Local options for accessing testing and treatment for HIV
36 and hepatitis C.

37 (C) Local options for safe disposal of sharps waste, including,
38 if available, the locations of authorized needle exchange
39 programs, home-generated sharps consolidation points as defined

1 in Section 117904, or medical waste generators for disposal
2 pursuant to Section 118147.

3 (2) Store hypodermic needles and syringes so that they are
4 available only to authorized personnel, and not openly available to
5 customers.

6 (3) In order to provide for the safe disposal of hypodermic
7 needles and syringes, a registered pharmacy shall provide one or
8 more of the following options:

9 (A) An onsite safe hypodermic needle and syringe collection
10 and disposal program.

11 (B) Furnish or make available for purchase mail-back sharps
12 disposal containers authorized by the United States Postal Service
13 that meet applicable state and federal requirements, and provide
14 tracking forms to verify destruction at a certified disposal facility.

15 (C) Furnish or make available for purchase personal sharps
16 disposal containers that meet state and federal standards for
17 disposal of medical waste.

18 (f) As used in this chapter, “sharps waste” means hypodermic
19 needles, syringes, and lancets.

20 SEC. 5. Section 41770 of the Public Resources Code is
21 amended to read:

22 41770. (a) ~~Each~~ *Except as provided in subdivision (d), each*
23 countywide or regional agency integrated waste management
24 plan, and the elements thereof, shall be reviewed, revised, if
25 necessary, and submitted to the board every five years in
26 accordance with the schedule set forth under Chapter 7
27 (commencing with Section 41800).

28 (b) Any revisions to a countywide or regional agency
29 integrated waste management plan, and the elements thereof, shall
30 use a waste disposal characterization method that the board shall
31 develop for the use of the city, county, city and county, or regional
32 agency. The city, county, city and county, or regional agency shall
33 conduct waste disposal characterization studies, as prescribed by
34 the board, if it fails to meet the diversion requirements of Section
35 41780, at the time of the five-year revision of the source reduction
36 and recycling element.

37 (c) The board may review and revise its regulations governing
38 the contents of revised source reduction and recycling elements to
39 reduce duplications in one or more components of these revised
40 elements.

1 (d) *On and after January 1, 2005, when a county or regional*
2 *agency revises its countywide or regional integrated waste*
3 *management plan and its elements, the city and county household*
4 *hazardous waste elements may be updated to include a program*
5 *for the safe collection, treatment, and disposal of sharps waste*
6 *generated by households. As used in this subdivision “sharps*
7 *waste” means hypodermic needles, syringes, and lancets.*

8 SEC. 6. Section 41803 is added to the Public Resources Code,
9 to read:

10 41803. In addition to the provisions of Section 41802, any
11 household hazardous waste plan submitted to the board after
12 January 1, 2005, may include a program for the safe collection,
13 treatment, and disposal of sharps waste generated by households
14 that may include the following:

15 (a) The designation of authorized locations such as household
16 hazardous waste collection facilities, designated hospitals and
17 clinics, and fire stations, that will accept sharps waste.

18 (b) Efforts by the local agency to inform and encourage the
19 public to return sharps waste to designated collection locations.

20 (c) Efforts by the local agency to inform and encourage the
21 public to subscribe to mail-back programs authorized by the
22 United States Postal Service.

23 (d) Expenditures for the safe collection, treatment, and
24 disposal of sharps waste, consideration of the feasibility of
25 offering low-cost mail-back programs for senior and low-income
26 households.

27 As used in this section “sharps waste” means hypodermic
28 needles, syringes, and lancets.

29 SEC. 7. Section 41900 of the Public Resources Code is
30 amended to read:

31 41900. Each city and county shall demonstrate a funding
32 source, or sources, available to pay for preparing, adopting, and
33 implementing the element or plan, as required by this part,
34 *including fees imposed pursuant to Section 41901. Plans*
35 *submitted after January 1, 2005, may also include the*
36 *identification of funding sources for the collection, treatment, and*
37 *disposal of sharps waste generated by households. As used in this*
38 *section “sharps waste” means hypodermic needles, syringes, and*
39 *lancets.*

1 SEC. 8. Notwithstanding Section 17610 of the Government
2 Code, if the Commission on State Mandates determines that this
3 act contains costs mandated by the state, reimbursement to local
4 agencies and school districts for those costs shall be made pursuant
5 to Part 7 (commencing with Section 17500) of Division 4 of Title
6 2 of the Government Code. If the statewide cost of the claim for
7 reimbursement does not exceed one million dollars (\$1,000,000),
8 reimbursement shall be made from the State Mandates Claims
9 Fund.

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